

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

HO KEUNG TSE,

Plaintiff,

v.

APPLE, INC., et al.

Defendants.

No. C 06-6573 SBA

ORDER REGARDING PLAINTIFF'S  
REQUEST TO BE EXCUSED FROM  
PERSONALLY ATTENDING ENE  
SESSION

The ADR Magistrate Judge has considered plaintiff's request to be excused from attending the ENE session in person on May 18, 2007, as well as defendants' opposition thereto. Plaintiff's request is untimely and no explanation, credible or otherwise, has been proffered for this tardiness. The fact that on April 10, 2007, the parties jointly filed a request to move the date of the ENE to May 18th shows that plaintiff and his counsel have had ample opportunity either to secure the necessary travel documents or to present a timely request for the relief now so tardily sought.

The court hereby gives the plaintiff and his counsel a choice: either show up at the scheduled ENE on May 18th or appear in person at an ENE session that will occur within the next two months on a date to be fixed by the evaluator after consultation with the parties. Plaintiff (through counsel) must notify defense counsel and the evaluator which option he is choosing by May 16, 2007.

1 If the ENE is rescheduled, and if that rescheduling causes defendants to incur  
2 unrecoupable expenses, defendants may elect to submit to the undersigned (simultaneously  
3 copying plaintiff's counsel) a detailed declaration that supports the expenses claimed and  
4 explains how they were caused by the rescheduling. If defendants submit such a declaration,  
5 plaintiff must file a response no later than seven court days later.

6 On a separate score, the court hereby ADMONISHES DEFENSE COUNSEL for  
7 submitting to the undersigned sixty-eight pages of material by FAX. Defense counsel had  
8 permission to submit a facsimile of a few pages. The court is concerned that defense counsel  
9 may be simply running up the bill it will charge its client (and the amount it will seek to  
10 recoup from plaintiff) – because the pages and pages of attachments included in the FAX  
11 were wholly unnecessary in this setting and at this juncture.

12 IT IS SO ORDERED.

13  
14 Dated: May 15, 2007

15  
16   
17 \_\_\_\_\_  
18 WAYNE D. BRAZIL  
19 United States Magistrate Judge

20  
21  
22  
23  
24  
25  
26  
27  
28  
Copies to: all parties, SBA  
WDB, ADR, Stats